

Message Text

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FM AMEMBASSY MONTEVIDEO

TO SECSTATE WASHDC 850

C O N F I D E N T I A L SECTION 1 OF 3 MONTEVIDEO 949/1

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TAGS: SHUM, PINS, PFOR, PINT, PORO, EAID, EFIN, UY

SUBJECT: HUMAN RIGHTS IN URUGUAY

REFS: (A) 73 MONTEVIDEO A-177, (B) 75 MONTEVIDEO A-9, (C) 75
MONTEVIDEO A-23, (D) 75 MONTEVIDEO 3378, (E) 75 MONTEVIDEO
3425, (F) 75 MONTEVIDEO 3470, (G) 75 MONTEVIDEO A-157, (H)
MONTEVIDEO 241, (I) MONTEVIDEO 255, (J) MONTEVIDEO 490,
(K) STATE 045319, (L) MONTEVIDEO 750, (M) MONTEVIDEO 753,
(N) MONTEVIDEO A-17

1. THE FOLLOWING SUMMARIZES AN AIRGRAM TO BE SENT IN NEXT CLASSIFIED
POUCH. THIS SUMMARY CONCENTRATES ON HUMAN RIGHTS ISSUES OF PRI-
MARY CONGRESSIONAL CONCERN AS REQUESTED IN REF (K). PREVIOUS EM-
BASSY REPORTING CONTAINED IN REFS HAS COVERED MOST OF THE POINTS
IN REF (K), BUT THIS SUMMARY AND THE FOLLOW-ON AIRGRAM SHOULD
SERVE AS A NEW AND USEFUL BASIS TO REVIEW THE PRESENT SITUATION IN
URUGUAY.

2. THE URUGUAYAN CONSTITUTION (ARTICLES 7 - 39) CONTAINS PRO-
VISIONS SETTING FORTH THE USUAL LEGAL RIGHTS AND GUARANTEES FOUND
IN MOST WESTERN DEMOCRACIES AND IN THE UN DECLARATION OF HUMAN
RIGHTS (SEE REF C). SOME OF THESE RIGHTS HAVE BEEN CIRCUMSCRIBED
IN RECENT YEARS WITH THIS SUBJECT COVERED FULLY IN THE AIRGRAM

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TO FOLLOW.

3. BEGINNING IN 1972, THE GOU ISSUED A NUMBER OF LAWS AND DECREES WHICH LIMITED INDIVIDUAL RIGHTS AND GAVE THE GOVERNMENT, ACTING THROUGH THE ARMED FORCES, BROAD POWERS TO COMBAT TERRORISM AND SUBVERSION. AT ONE POINT (APRIL 15, 1972), BASED ON WHAT WAS A SERIOUS INTERNAL SECURITY THREAT ARISING FROM TUPAMARO SUBVERSION, THE PRESIDENT WITH THE CONSENT OF CONGRESS DECLARED A STATE OF "INTERNAL WAR". THIS DECREE HAS SINCE BEEN SUPERCEDED BY A PRESIDENTIAL DECREE OF JUNE 1, 1973, ENTITLED "EXTRAORDINARY MEASURES ADOPTED CONTINUING THE ARREST OF PERSONS ACCUSED OF SUBVERSIVE ACTIVITIES OR ECONOMIC CRIMES." (SEE REF B) THE DECREE ALLOWS THE CONTINUED DETENTION OF PERSONS WHOSE CONDUCT IS DEEMED DANGEROUS TO THE SECURITY OF THE STATE AND PUBLIC ORDER, AND AUTHORIZES THE ARREST, AS AN EMERGENCY MEASURE, OF PERSONS BELIEVED TO BE INVOLVED IN SUBVERSIVE ACTIVITIES OR ECONOMIC CRIMES. THE DECREE ALSO PROHIBITS THE DISSEMINATION OF NON-OFFICIAL NEWS RELEASES OR COMMENTARY CONCERNING PERSONS CONSPIRING AGAINST THE NATION. PERSONS ACCUSED OF TERRORIST OR SUBVERSIVE ACTIVITIES AND "CRIMES AGAINST THE NATION" ARE SUBJECT TO THE JURISDICTION OF THE MILITARY COURT SYSTEM. AT THE PRESENT TIME, THERE IS NO "STATE OF SEIGE", "STATE OF EMERGENCY", MARTIAL LAW OR THE LIKE IN EXISTENCE, BUT THE CONSTITUTION DOES PROVIDE FOR SUCH A STATE OF EXCEPTION. (ARTICLES 168(17), 85(7), AND 31), SEE REF (C).

4. DURING THE STATE OF "INTERNAL WAR" THERE WERE UNDOUBTEDLY VIOLATIONS OF HUMAN RIGHTS ARISING FROM THE FACT THAT CERTAIN INDIVIDUAL GUARANTEES WERE SUSPENDED EVEN THOUGH THE SUSPENSION WAS CARRIED OUT CONSTITUTIONALLY WITH THE APPROVAL OF CONGRESS. THE SUSPENSION OF CERTAIN INDIVIDUAL GUARANTEES WAS THE RESULT OF THE GOU'S DETERMINATION TO DESTROY THE DEMONSTRATED EFFECTIVENESS OF THE TUPAMARO TERRORIST ORGANIZATION. THIS EFFORT WAS LARGELY SUCCESSFUL, AND THE TUPAMAROS PROBABLY NO LONGER POSE A THREAT TO THE NATION. NEVERTHELESS, THE GOU AND THE ARMED FORCES BELIEVE THAT THERE CONTINUES TO BE AN AGGRESSIVE, MARXIST-INSPIRED SUBVERSIVE CAMPAIGN TO IMPOSE A COMMUNIST REGIME IN URUGUAY. FOR THEAT REASON THE GOU CONTINUES TO LIMIT SOME BASIC INDIVIDUAL GUARANTEES.

5. THERE HAVE BEEN INSTANCES WHERE SOME PERSONS, BELIEVED TO
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HAVE BEEN IN CUSTODY, DIED UNDER SUSPICIOUS CIRCUMSTANCES. WE KNOW, FOR EXAMPLE, THAT ON DECEMBER 20, 1974, FIVE PERSONS, THREE OF WHOM HAD PREVIOUSLY BEEN SENTENCED FOR TUPAMARO ACTIVITIES, WERE KILLED BY MACHINE-GUNFIRE ON THE OUTSKIRTS OF MONTEVIDEO (REF (C)). AMNESTY INTERNATIONAL RECENTLY CHARGED THAT 24 PERSONS HAVE DIED SINCE 1972 WHILE UNDER THE CONTROL OF THE SECURITY FORCES. WHILE WE DO NOT HAVE INFORMATION ON ALL 24 NAMED

BY AI, IT DOES APPEAR TRUE THAT SOME OF THESE INDIVIDUALS DID DIE WHILE IN CUSTODY, WITH THE CAUSE OF DEATH IN MOST CASES BEING UNCLEAR. SOME OTHERS OF THOSE NAMED, HOWEVER, DIED IN SECURITY FORCE RAIDS IN WHICH MEMBERS OF THE LATTER WERE ALSO KILLED. (OUR FULL REPORT ON THE MATTER IS CONTAINED IN REF (I).

6. OTHER PERSONS SUSPECTED OF TERRORIST OR SUBVERSIVE ACTIVITIES HAVE BEEN ARRESTED UNDER EMERGENCY SECURITY MEASURES. MOST WHO ARE DETAINED ARE EVENTUALLY CHARGED WITH SPECIFIC CRIMES UNDER THE "LAW OF STATE SECURITY AND INTERNAL ORDER" (SEE REF B) AND THE MILITARY PENAL CODE AND DO HAVE A HEARING BEFORE A MILITARY JUDGE. OTHERS ARE RELEASED UNCONDITIONALLY AND OTHERS ARE SET FREE UNDER TERMS OF CONDITIONAL RELEASE. THOSE PERSONS ACCUSED OF COMMON CRIMES ENJOY THE SAME LEGAL RIGHTS AND GUARANTEES THAT THEY ALWAYS HAD.

7. EXCESSES IN THE EARLY STAGES OF DETENTION AND DURING INTERROGATION HAVE UNDOUBTEDLY OCCURRED IN SOME CASES WHERE PERSONS WERE ARRESTED FOR TERRORIST OR SUBVERSIVE ACTIVITY. WE BELIEVE PSYCHOLOGICAL ABUSE WAS USED MORE FREQUENTLY THAN ACUTAL PHYSICAL ABUSE. WE ALSO BELIEVE THESE PRACTICES WERE DIMINISHING UNTIL LATE 1975 WHEN ARRESTS OF COMMUNISTS INCREASED AFTER THE GOU UNCOVERED CLANDESTINE COMMUNIST PARTY ORGANIZATIONS INCLUDING AN ARMED APPARATUS OF SOME MAGNITUDE.

8. IN MOST CASES ARRESTS AND DETENTIONS ARE BASED ON WELL-FOUNDED

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C O N F I D E N T I A L SECTION 2 OF 3 MONTEVIDEO 949/2

INFORMATION THAT SOME ILLEGAL ACTIVITY HAS TAKEN PLACE. NEVERTHELESS, IN SOME CASES, THE ILLEGAL ACTIVITY MIGHT BE THE RESULT OF DEFYING A LAW, WHICH IN ITSELF, MAY BE A VIOLATION OF A HUMAN RIGHT AS SET OUT IN THE UDHR. FOR EXAMPLE, CRITICIZING THE ARMED FORCES IS PUNISHABLE UNDER ARTICLE 58 OF THE MILITARY PENAL CODE, (SEE REF N), AND PEOPLE HAVE BEEN ARRESTED UNDER THIS PROVISION. FOR THE MOST PART, HOWEVER, SUCH ARRESTS HAVE BEEN LIMITED AND CONFINED TO A SMALL NUMBER OF MILITANT COMMUNISTS.

9. FREEDOM OF OPINION EXPRESSION, ASSEMBLY AND ASSOCIATION IS LIMITED. DIRECT MEDIA CRITICISM OF THE GOU IS ALMOST NON-EXISTENT, ALTHOUGH VEILED CRITICISM OF GOVERNMENT POLICIES IN EDITORIAL OR OTHER FORM DOES APPEAR. MARXIST AND OTHER LEFT-WING PHILOSOPHIES ARE NOT TOLERATED; POLITICAL MEETINGS ARE NOT ALLOWED AND UNION MEETINGS ARE HELD ONLY WITH THE PERMISSION OF THE GOVERNMENT. THE GOU CONTENDS THAT THESE MEASURES ARE NECESSARY FOR THE MAINTENANCE OF NATIONAL ORDER AND SECURITY. HOWEVER, MAJOR POLITICAL PARTY HEADQUARTERS REMAIN OPEN AND THEIR ELECTED OFFICIALS CONTINUE TO FUNCTION. MOREOVER, THE PRESIDENTS OF THE TWO MAJOR POLITICAL PARTIES CONTINUE TO HOLD GOVERNMENT JOBS.

10. URUGUAY'S LONG-STANDING TRADITION OF DEMOCRATIC AND REPRESENTATIVE GOVERNMENT HAS BEEN ALTERED SUBSTANTIALLY. HOWEVER, THERE IS GENERAL BELIEF THAT THIS IS A TEMPORARY SITUATION. CONFIDENTIAL

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IT IS WIDELY HELD BY URUGUAYANS THAT TRADITIONAL POLITICAL INSTITUTIONS AS THEY WERE STRUCTURED DID NOT RESPOND ADEQUATELY TO THE ECONOMIC, SOCIAL AND POLITICAL PROBLEMS OF THE 1960'S AND 1970'S. THE ELECTED PRESIDENT (WITH A CIVILIAN CABINET) CONTINUES IN OFFICE. HIS MANDATE EXPIRES IN MARCH, 1977. CONGRESS HAS BEEN DISBANDED SINCE JUNE 1973 AND REPLACED BY AN APPOINTED COUNCIL OF STATE. IT IS UNLIKELY THAT REFORMS OF POLITICAL INSTITUTIONS WILL BE COMPLETED IN THE NEAR FUTURE OR THAT ELECTIONS WILL BE HELD AS SCHEUDLED IN NOVEMBER, 1976.

11. URUGUAYANS CONTINUE TO ENJOY OTHER BASIC HUMAN RIGHTS. THEY GENERALLY CONTINUE TO HAVE FREEDOM OF RELIGION, FREEDOM OF MOVEMENT WITHIN THE COUNTRY, AND FREEDOM TO EMIGRATE AND TO RETURN. THERE IS FREE PUBLIC EDUCATION THROUGH THE UNIVERSITY LEVEL AND AN ADVANCED SOCIAL WELFARE SYSTEM. THERE ARE NO LEGAL RESTRICTIONS ON A JOB OR CAREER. THERE IS GREAT SOCIAL HOMOGENEITY, AND RACIAL AND ETHNIC DISCRIMINATION IS MINIMAL. WOMEN ARE ACCORDED FULL LEGAL RIGHTS AND CLASS DISTINCTIONS ARE PROBABLY LESS MARKED HERE THAN IN MOST OTHER PARTS OF THE WORLD.

12. THE GOU HAS MADE SOME APPARENT MOVES TO REDUCE THE INCIDENCE

OF THE MOST FLAGRANT VIOLATIONS OF HUMAN RIGHTS. WE ARE AWARE, FOR EXAMPLE, THAT AFTER THE ASSASSINATIONS MENTIONED IN PARA 5, HIGH MILITARY OFFICIALS WARNED THEIR OFFICERS THAT ANY INVOLVEMENT IN SUCH ACTIONS WOULD RESULT IN COURT MARTIALS. MORE IMPORTANTLY, THE HIGHEST LEVELS OF GOVERNMENT ARE REVIEWING ALL PRACTICES TO ENSURE THAT ABUSES ARE ELIMINATED. THE POLICY OF THE GOVERNMENT NEITHER ENCOURAGES NOR CONDONES THOSE VIOLATIONS OF HUMAN RIGHTS OF GREATEST CONCERN TO OUR CONGRESS. WHILE THE PROBLEM OF GOVERNMENTAL COORDINATION AND ADMINISTRATIVE CONTROLS AND SANCTIONS DOES EXIST, WE BELIEVE THE HIGHEST AUTHORITIES ARE AWARE OF THESE PROBLEMS AND ARE ATTEMPTING TO CORRECT THEM.

13. STEPS HAVE BEEN TAKEN TO ELIMINATE VIOLATIONS. THE NUMBER OF JUDGES AND PROSECUTORS IN THE MILITARY COURT SYSTEM WAS INCREASED, AND PRISON FACILITIES ARE BEING IMPROVED. THE GOVERNMENT--UP TO NOW AT LEAST--HAS HAD AN OPEN DOOR POLICY ALLOWING RESPONSIBLE INTERNATIONAL ORGANIZATION ACCESS TO THE COUNTRY. WHEN THESE ORGANIZATIONS HAVE CONDUCTED ON THE SCENE INSPECTIONS, THEY HAVE BEEN GRANTED THE RIGHT TO PRIVATELY INTERVIEW PRISONERS AND INSPECT MAJOR DETENTION CENTERS. THEY HAVE ALSO BEEN ABLE TO MEET WITH HIGH-CONFIDENTIAL

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LEVEL URUGUAYAN OFFICIALS AND WITH OTHER INDIVIDUALS.

14. THE INTERNATIONAL COMMISSION OF JURISTS AND AMNESTY INTERNATIONAL ISSUED A JOINT REPORT JUNE 17, 1974 SUMMARIZING THE PROCEDURES USED IN THE DETENTION OF SUSPECTS UNDER THE PROVISIONS OF THE "LAW OF STATE SECURITY AND INTERNAL ORDER" AND CHARGING MISTREATMENT. A SUPPLEMENTARY REPORT (NOT BASED ON AN INSPECTION) ISSUED BY THE ICJ JANUARY 24, 1975 CHARGED THAT THERE HAD BEEN A DETERIORATION OF THE HUMAN RIGHTS SITUATION AS DEMONSTRATED BY: THE ARREST AND RESTRICTION OF PRIVILEGES OF LARGE NUMBERS OF PRISONERS; THE KILLING OF FIVE PERSONS FOLLOWING THE ASSASSINATION OF THE URUGUAYAN MILITARY ATTACHE IN PARIS; THE INDEFINITE POSTPONEMENT OF THE 1976 PRESIDENTIAL ELECTIONS; THE CLOSING OF MANY UNIVERSITY FACULTIES AND THE FIRING OF MANY OF THE STAFF; AND INCREASED CONTROL OF THE PRESS. (IT SHOULD BE NOTED THAT ELECTIONS HAVE NOT YET BEEN POSTPONED AND THAT UNIVERSITY FACULTIES REOPENED SHORTLY THEREAFTER). IN TRANSMITTING THE 1974 REPORT TO PRESIDENT BORDABERRY, AI/ICJ TOLD HIM THEY BELIEVED HE WAS DOING EVERYTHING POSSIBLE TO REDUCE THE RISKS OF MISTREATMENT. SINCE OUR INFORMATION INDICATED THE SITUATION WAS IMPROVING AT THAT TIME, AND CONTINUED TO IMPROVE THEREAFTER WITH THE EXCEPTION OF THE CURRENT MOVE AGAINST THE URUGUAYAN COMMUNIST PARTY, WE FIND AI'S LATEST REPORT (SEE PARA 17) TO BE, IN GENERAL, AN INACCURATE PORTRAYAL OF THE SITUATION HERE.

15. ON JULY 28, 1975, AI ISSUED A NEWS RELEASE CHARGING, AMONG

OTHER THINGS, SUPPRESSION OF PEACEFUL POLITICAL DISSENT IN URUGUAY AND THE WIDESPREAD USE OF TORTURE. SOME OF THE CHARGES WERE TURE, OTHERS WERE FALSE OR GROSSLY EXAGGERATED. THE ALLEGATION AS TO WHOLESALE PHYSICAL ABUSE OF PRISONERS, FOR EXAMPLE, IS IN OUR VIEW A GROSS EXAGGERATION. IN GENERAL, WE FOUND THE REPORT TO BE MISLEADING (REF (E)).

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C O N F I D E N T I A L SECTION 3 OF 3 MONTEVIDEO 949/3

16. A JUNE 1975 REPORT FROM THE INTERNATIONAL COMMISSION OF JURISTS ADDRESSED THREE MAJOR POINTS: VOLUNTARY EXILE, EXPULSION FROM THE COUNTRY OF PRISONERS ARRESTED UNDER THE EXCEPTIONAL POWER GRANTED AS "PROMPT SECURITY MEASURES" (SEE REF B) AND THEIR RE-ENTRY INTO URUGUAY. THE EMBASSY DID NOT AGREE WITH THE CONCLUSIONS OF THE REPORT. AS THE ISSUE IS HIGHLY TECHNICAL, REF (D) SHOULD BE CONSULTED FOR FURTHER INFORMATION.

17. AMNESTY INTERNATIONAL RECENTLY BEGAN A WELL-PUBLICIZED CAMPAIGN AGAINST URUGUAY CHARGING, AMONG OTHER THINGS, THAT THERE CONTINUES TO BE WIDESPREAD TORTURE, UNLAWFUL KILLINGS, AND THE HOLDING OF 6,000 POLITICAL PRISONERS. WHILE THERE ARE ELEMENTS OF TRUTH IN SOME OF AI'S CHARGES, THE RESULTANT OVERALL PICTURE OF URUGUAY TODAY IS HIGHLY DISTORTED AS IS THE NUMBER OF DETAINEES EXAGGERATED. THE REPRESSIVE, POLICE STATE PICTURE PAINTED BY AI DOES NOT HOLD TRUE FOR ANY OBJECTIVE VIEWER OF THE PRESENT SITUATION IN URUGUAY AND PARTICULARLY FOR THOSE LIVING IN THE COUNTRY AT THIS TIME. A FULL DISCUSSION OF THIS REPORT IS PROVID-

ED IN REFS (L) AND (M).

18. THE ILO ISSUED A LENGTHY REPORT ON TRADE UNIONS IN NOVEMBER 1975 WHICH SAID THAT CERTAIN PROVISIONS OF ILO CONVENTIONS REGARDING TRADE UNION RIGHTS WERE NOT ALWAYS GUARANTEED UNDER THE PRESENT GOVERNMENT. THE REPORT FOUND NO EVIDENCE TO INDICATE CONFIDENTIAL

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MISTREATMENT OF INDIVIDUALS AND, IN FACT, FOUND THAT NOT A SINGLE TRADE UNIONIST WAS BEING DETAINED AS A RESULT OF UNION ACTIVITIES.

19. AS OUTLINED IN REF (E), THE EMBASSY HAS CONSISTENTLY MADE SPECIAL AND NUMEROUS DIPLOMATIC EFFORTS TO ENSURE THAT HIGH GOU OFFICIALS, ARMED FORCES OFFICERS, AND PRIVATE CITIZENS ARE FULLY AWARE OF OUR CONCERN FOR THE RESPECT AND OBSERVANCE OF HUMAN RIGHTS.

SINCE REPORTING IN REFTEL, THE AMBASSADOR HAS MET WITH THE FOREIGN MINISTER SEVERAL TIMES AND HAS EMPHASIZED OUR CONTINUING CONCERN (SEE REF (J)). WE ARE, THEREFORE, CONFIDENT THAT THE GOU HAS FULL AWARENESS OF OUR POSITION. IN ADDITION, SENIOR EMBOFFS HAVE REPEATEDLY TOLD THEIR GOU CONTACTS THAT RESPECT FOR HUMAN RIGHTS IS OF PARAMOUNT CONCERN IN OUR RELATIONS. WE BELIEVE OUR EFFORTS ARE PRODUCING RESULTING.

20. WITH RESPECT TO SECURITY ASSISTANCE, WE ARE CONFIDENT THAT NO SUCH AID IS IN ANY WAY ASSOCIATED WITH HUMAN RIGHTS VIOLATIONS. WE HAVE NOT DISASSOCIATED ASSISTANCE FROM VIOLATIONS FOR LACK OF NEED TO DO SO. THE SECURITY ASSISTANCE PROGRAM HERE HAS BEEN LIMITED PRIMARILY TO PROVISION OF FOLLOW-ON SPARES AND TRAINING, NONE TO UNITS WITH ANY POLICE-TYPE FUNCTION. HAAHR

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